



Town of Hopkinton

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HOPKINTON PLANNING BOARD MINUTES AUGUST 13, 2013

Chairman Bruce Ellsworth opened the Hopkinton Planning Board meeting of Tuesday, August 13, 2013, beginning at 6:30 PM in the Hopkinton Town Hall. Members present: Vice Chairman Timothy Britain, Ex-Officio George Langwasser, Jane Bradstreet, Michael Wilkey, Edwin Taylor and Alternate Rich Steele. Members absent: Celeste Hemingson and Alternate Cettie Connolly.

Due to Mrs. Hemingson's absence, Mr. Steele was designated as a voting member.

I. Review of the Minutes and Notice of Decision of July 9, 2013.

Motion made by Mr. Wilkey, seconded by Mr. Steele, to approve the Minutes of July 9, 2013 as presented. Motion carried unanimously (Langwasser, Britain, Bradstreet, Taylor, Steele, Wilkey and Ellsworth).

Motion made by Mr. Wilkey, seconded by Mrs. Bradstreet, to approve the Notice of Decision of July 9, 2013 as presented. Motion carried unanimously (Langwasser, Britain, Bradstreet, Taylor, Steele, Wilkey and Ellsworth).

II. Conceptual(s). There were no conceptual consultations.

III. Application(s).

#2013-11 Chalk Pond Investments, LLC. Jen McCourt of McCourt Engineering addressed the Planning Board representing Christian Hartshorn of Chalk Pond Investments to present plans of a two lot subdivision of property located off Pleasant Pond Road in the Towns of Hopkinton and Warner. The property consists of 97.4 acres with 1.0 acres and road frontage in Hopkinton and 96.4 acres in Warner. The proposal is to create a 2.75 acre parcel with .69 acres located in Hopkinton and 2.06 acres in Warner, and to construct 330 feet of Town road to be used as frontage for the remaining 94.16 acres in Warner. The property located in Hopkinton contains an existing residence and is in the R-3 district, shown on Tax Map 206 as Lot 21. The property located in Warner is land-only and is in the R-2 and OR-1 districts, shown on Tax Map 3 as Lot 22.

According to Ms. McCourt, the proposed location for the new road is the most suitable location when considering the site distance along Pleasant Pond Road. Furthermore, the location was based on the fact that the owner does not have an easement from the abutter for the necessary grading of the proposed road. The road is designed to meet the Town of Warner's road standards, which are stricter than the standards in Hopkinton.

Mr. Britain questioned whether that portion of the lot in Hopkinton always had frontage along Pleasant Pond Road. Ms. McCourt responded no, explaining that in 2004 a lot line adjustment was approved by the Town of Warner that had provided the frontage along Pleasant Pond Road. The lot line adjustment had been submitted by the previous owner, Arthur Cutter, who had owned the adjacent parcel that is now owned by the Town of Warner.

Mr. Britain questioned whether the intent of the subdivision is to rectify the situation in which the house was constructed straddling the Hopkinton/Warner Town Line. Ms. McCourt replied no, indicating that the purpose of the subdivision is to subdivide off the existing house so that it may be sold. Mr. Hartshorn noted that the tenants of the house are interested in purchasing the home; however, they do not want to purchase the entire 97 acres.

Ms. McCourt had presented the subdivision proposal to the Warner Planning Board, who agreed to continue their meeting, but did not accept the application as complete, requesting “housekeeping” items be addressed. Additionally, the Warner Planning Board voted to consider the subdivision as a development of regional impact, requiring the plans be submitted to the Regional Planning Commission for review and comment and officially designating Hopkinton as an abutter. Also, given the fact that the property is located in the Towns of Warner and Hopkinton, the Warner Planning Board would like to hold a joint meeting with Hopkinton.

Mrs. McCourt noted that she had submitted the subdivision applications separately to Warner and Hopkinton so that each town would have an opportunity on their own to review the plans and to ask questions or request additional information. She realized that at some point in time the towns would likely want to meet jointly.

Chairman Ellsworth questioned whether, at some point in time, the members would like to meet with the Warner Planning Board. Mr. Britain replied yes, but suggested that there are issues involving Hopkinton that should be addressed before Warner and Hopkinton meet jointly. Note: Chairman Ellsworth polled members with everyone agreeing unanimously to hold a joint meeting with Warner. The meeting date and time to be determined once Hopkinton has an opportunity to address items that solely involve the Town of Hopkinton.

Mr. Ellsworth recognized for discussion the fact that the Applicant constructed the house in question so that it straddles the Hopkinton/Warner Town Line. Mrs. Robertson noted that as a result, in 2007, Hopkinton entered into an agreement with the Applicant which included a penalty of \$2,500. At the time of the agreement, the Applicant paid the Town \$1,000. Then, in 2008 as a result of non-payment, Hopkinton requested Superior Court take action. As a result, the Court ordered the Applicant to pay Hopkinton \$3,175.00. To date, Hopkinton has not received payment(s).

Mr. Britain suggested that the Planning Board consult with their attorney to determine whether the Board can require the Applicant to pay restitution, prior to any action. In response, Mrs. Robertson noted that she had contacted the Board’s attorney; however, he is currently away. In contacting another member of the legal firm, it was confirmed that the Planning Board could not delay action as a result of the \$25,000 in back taxes that the Applicant owes Hopkinton; however, it was suggested that the Board continue the application so that they may consult with their attorney concerning non-payment involving the zoning violation.

In response to comments by members of the Board and Mrs. Robertson, Mr. Hartshorn noted that the penalty was as a result of the residence being occupied without an occupancy permit and had nothing to do with the location of the residence. Mr. Britain noted that the agreement that is signed by the Town and Mr. Hartshorn clearly indicates that the penalty is as a result of the location of the residence. In fact, Mr. Hartshorn was required to amend the building permit.

Mr. Britain then inquired as to the number of tax bills the Applicant receives from the Town of Hopkinton and Warner concerning the property. Mr. Hartshorn advised that he receives one tax bill from Hopkinton and one tax bill from Warner.

At this time, members discussed whether the application should be accepted for consideration given the fact that they wanted to consult with their attorney concerning the unpaid zoning penalty. Chairman Ellsworth noted that acceptance of the application would start the time period by which the Planning Board must act on the application.

Ms. McCourt and Mr. Hartshorn requested that the Board accept the application for consideration and then address the issues as needed. Ms. McCourt suggested the fact that the Board's attorney is away should have no impact on the Applicant's ability to have the application accepted for consideration.

Following brief discussion with the Ms. McCourt and Mr. Hartshorn concerning the matter, Chairman Ellsworth called for a vote of the Board.

Motion made by Mr. Britain, seconded by Mr. Taylor, to not accept, without prejudice, Application #2013-11, so that the Planning Board may consult with their attorney concerning the effect of the unpaid zoning penalty. Motion carried unanimously (Langwasser, Britain, Bradstreet, Taylor, Steele, Wilkey and Ellsworth).

As a result of not accepting the application, the Applicant will need to file a new application. Mrs. Robertson noted that a photocopy of the application already filed, along with an updated signature page would be sufficient. Filing of additional plans will not be necessary unless there are revisions.

Motion made by Mr. Britain, seconded by Mr. Bradstreet, to waive the application fee, but require the Applicant to pay for legal notice (owner, abutters and newspaper). Motion carried unanimously (Langwasser, Britain, Bradstreet, Taylor, Steele, Wilkey and Ellsworth).

IV. Other Business.

- **Capital Improvements Plan (2014-2019)** – Preparation of the Capital Improvements Plan has been initiated with requests being sent to municipal departments and school district.
- **Zoning Amendments (2014)** – Proposed zoning amendments, if any, will be discussed at an upcoming Planning Board meeting.

V. Adjournment. With no other business to come before the Board, Chairman Ellsworth declared the meeting adjourned at 7:12 PM. The next regular scheduled meeting of the Planning Board is Tuesday, September 10, 2013, at 6:30 PM in the Town Hall.

Karen L. Robertson
Planning Director

In accordance with RSA 677:15, any person(s) aggrieved by any decision of the Planning Board concerning application(s) may present to the Superior Court a petition, duly verified, setting forth that such a decision is illegal or unreasonable in whole or part and specifying the grounds upon which the same is claimed to be illegal or unreasonable. Such petition shall be presented to the court within thirty (30) days after the Board's final decision regarding the application in question has been filed and becomes available for public inspection in the Planning Office.